

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LAWRENCE LANE, On Behalf of Himself,
and All Others Similarly Situated,

Plaintiff,

vs.

No. CIV 06-1071 JB/ACT

BARBARA PAGE, SOSIMO PADILLA,
JOE CHAVEZ, JOSIE CASTILLO, CHARLES
PENA, GEORGIA BACA, TROY BENAVIDEZ,
RAY MARES, JR., RANDOLPH SANCHEZ, and
WESTLAND DEVELOPMENT CO., INC.

Defendants.

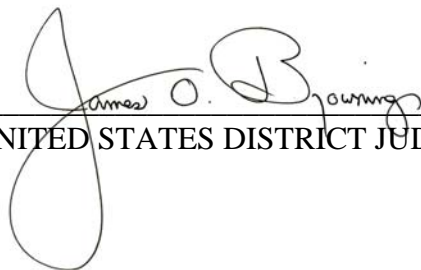
MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Plaintiff's Notice of Motion and Motion for an Order Granting Limited Expedited Discovery, filed August 22, 2008 (Doc. 71) ("Expedited Discovery Motion"). The Court held a hearing on September 15, 2008. The primary issue is whether the Court should allow Plaintiff Lawrence Lane to conduct expedited discovery of a third-party before the rule 16 conference because of the possibility of the statute of limitations cutting off potential claims. For the reasons stated at the hearing and other reasons consistent therewith, the Court will grant the motion in part.

The Court issued an order on September 15, 2008, disposing of the outstanding motions to dismiss. See Order, filed September 15, 2008 (Doc. 81). As such, there is no longer an automatic stay of discovery in effect under the Private Securities Litigation Reform Act of 2005. With this in mind, at the hearing, the parties, as well as the third-party from whom Lane seeks discovery, D.E. Shaw & Co., agreed to the Court's proposals regarding expedited discovery.

In accordance with that consensus, Lane may subpoena D.E. Shaw for any documents or other records listed in his Expedited Discovery Motion that he seeks to have produced. D.E. Shaw's counsel, Steptoe & Johnson, will accept the subpoena on D.E. Shaw's behalf. D.E. Shaw will have ten days from receipt of the subpoena to give a written response to Lane. The Court will make itself available to assist in resolving any disputes regarding the subpoena that the parties cannot resolve themselves. Additionally, Lane will be able to depose the individuals of whom he requested depositions in his Expedited Discovery Motion, but will need to move the Court to depose any other individuals outside of the normal discovery framework.

IT IS ORDERED that the Plaintiff's Notice of Motion and Motion for an Order Granting Limited Expedited Discovery is granted in part. The Plaintiff may seek discovery from D.E. Shaw & Co. before the rule 16 conference to the extent he requested such discovery in his Expedited Discovery Motion. The Plaintiff will be required to subpoena D.E. Shaw to seek discovery of documents in D.E. Shaw's possession. D.E. Shaw will have ten days from the Plaintiff's serving a subpoena upon D.E. Shaw, through its counsel, to respond in writing to Lane's subpoena. The Plaintiff may also depose the individuals listed in the Expedited Discovery Motion before the rule 16 conference.


UNITED STATES DISTRICT JUDGE

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– and –

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